

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council Of Howard County, Maryland

2004 Legislative Session

Legislative Day No. 9

Bill No. 36-2004

Introduced by: David A. Rakes

AN ACT requiring abatement of danger to the public health and safety caused by the destruction or damage to a building or structure by fire, requiring inspections of these buildings by certain agencies, mandating the issuance of citations for violation of certain codes, authorizing Howard County to abate any danger posed by the fire damaged building, establishing penalties for failure to abate any danger posed by fire damaged building, and generally relating to abatement of danger posed by fire damaged building or structure.

Introduced and read first time _____, 2004. Ordered posted and hearing scheduled.

By order _____
Sheila M. Tolliver, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2004.

By order _____
Sheila M. Tolliver, Administrator

This Bill was read the third time on _____, 2004 and Passed ____, Passed with amendments ____, Failed ____.

By order _____
Sheila M. Tolliver, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ____ day of _____, 2004 at ____ a.m./p.m.

By order _____
Sheila M. Tolliver, Administrator

Approved by the County Executive _____, 2004

James N. Robey, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN ALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland that
2 Section 17.111 “Fire Damaged Building or Structure”, of Subtitle 1, “Fire and Rescue
3 Services”, of Title 17, “Public Protection Services”, be, and is hereby added to read as
4 follows:
5

6 **Title 17. Public Protection Services**

7 **Subtitle 1. Fire and Rescue Services**

8 **17.111 Fire Damaged Building or Structure**
9

- 10
11 (A) **POLICY.** A BUILDING OR STRUCTURE SIGNIFICANTLY
12 DAMAGED BY FIRE MAY COLLAPSE, REIGNITE, CAUSE AIR
13 POLLUTION, PROVIDE RODENT HABITAT, OR OTHERWISE
14 THREATEN THE PUBLIC HEALTH, SAFETY, OR GENERAL
15 WELFARE. SUCH BUILDINGS SHOULD BE MADE SAFE BY
16 EITHER ENSURING STRUCTURAL INTEGRITY, REQUIRING
17 REPAIR, REMOVING THE REMNANTS OF SUCH STRUCTURE OR
18 OTHERWISE ABATING THE DANGER POSED BY THE FIRE
19 DAMAGED BUILDING.
20
21 (B) **DEFINITION.** ~~A FIRE DAMAGED BUILDING OR STRUCTURE IS~~
22 FOR PURPOSES OF THIS SECTION, A FIRE DAMAGED BUILDING
23 OR STRUCTURE SHALL MEAN A BUILDING OR STRUCTURE OR
24 PORTION THEREOF WHICH IS EITHER STRUCTURALLY
25 UNSOUND OR NO LONGER A STRUCTURE AS A RESULT OF
26 FIRE DAMAGE AND WHICH CAUSES ACTUAL DANGER TO THE
27 PUBLIC HEALTH AND SAFETY.
28
29 (C) **ABATEMENT OF FIRE DAMAGED BUILDING OR STRUCTURE.** IT
30 SHALL BE UNLAWFUL FOR ANY FIRE DAMAGED BUILDING OR
31 STRUCTURE TO REMAIN ON ANY LOT OR PARCEL OF GROUND,
32 UNLESS THE DANGER TO THE PUBLIC POSED BY THE FIRE
33 DAMAGED BUILDING CAN BE PREVENTED BY ALTERNATIVE
34 MEASURES.
35
36 (D) **NOTIFICATION TO AGENCIES.** WITHIN 5 BUSINESS DAYS AFTER
37 INITIAL RESPONSE TO A FIRE, THE DEPARTMENT OF FIRE AND
38 RESCUE SERVICES SHALL NOTIFY THE HOWARD COUNTY
39 HEALTH OFFICER AND THE DIRECTOR OF THE DEPARTMENT
40 OF INSPECTIONS, LICENSES AND PERMITS, THAT A BUILDING
41 OR STRUCTURE HAS BEEN DAMAGED BY FIRE.
42

- (1) WITHIN 5 BUSINESS DAYS OF RECEIPT OF THE NOTIFICATION, THE DIRECTOR OF THE DEPARTMENT OF INSPECTIONS, LICENSES AND PERMITS, AND THE HOWARD COUNTY HEALTH OFFICER SHALL CAUSE AN INSPECTION OF THE FIRE DAMAGED BUILDING OR STRUCTURE TO DETERMINE WHETHER THE FIRE DAMAGED BUILDING POSES A DANGER TO THE HEALTH AND SAFETY OF THE PUBLIC;
 - (2) WITHIN 5 BUSINESS DAYS AFTER THE FIRE, THE DEPARTMENT OF FIRE AND RESCUE SERVICES SHALL INSPECT THE PROPERTY TO DETERMINE WHETHER A FIRE HAZARD OR IMMINENT DANGER EXISTS; AND
 - (3) IF IT IS DETERMINED THAT A VIOLATION OF THE COUNTY'S FIRE PREVENTION CODE, THE HEALTH CODE, OR THE BUILDING CODE EXISTS, A NOTICE OF ABATEMENT SHALL BE ISSUED WITHIN 48 HOURS OF THE INSPECTION BY THE DEPARTMENT RESPONSIBLE FOR ADMINISTARTING THE CODE THAT IS BEING VIOLATED.
- (E) *ABATEMENT NOTICE.* THE COUNTY SHALL SEND AN ABATEMENT NOTICE TO THE OWNER OF ANY LOT OR PARCEL WHERE A FIRE DAMAGED BUILDING IS LOCATED. THE NOTICE SHALL BE SERVED BY EITHER REGISTERED OR CERTIFIED MAIL, OR BY PERSONAL SERVICE. THE NOTICE SHALL:
- (1) PROVIDE A DESCRIPTION OF THE REQUIRED ABATEMENT.
 - (2) REQUIRE THE PROPERTY OWNER TO ABATE THE DANGER POSED BY THE FIRE DAMAGED STRUCTURE WITHIN A REASONABLE TIME.
 - (3) INFORM THE OWNER THAT IF THE DANGER IS NOT ABATED, THE COUNTY MAY SEEK A COURT ORDER TO ABATE THE NUISANCE AT THE PROPERTY OWNER'S EXPENSE, WHICH ABATEMENT MAY INCLUDE THE DEMOLITION OF THE STRUCTURE OR ANY PORTION THEREOF.
 - (4) IF, UPON INVESTIGATION, IT IS DETERMINED THAT A VIOLATION OF THE HEALTH CODE, THE FIRE CODE OR

1 THE BUILDING CODE EXISTS, THE OWNER SHALL BE
2 NOTIFIED OF:

- 3
4 (I) THE SPECIFIC SECTION IN VIOLATION;
5 (II) THE DEADLINE FOR COMPLETING
6 ABATEMENT; AND
7 (III) THE POTENTIAL CIVIL OR CRIMINAL
8 PENALTIES, INCLUDING DAILY FINES,
9 PROVIDED BY SUBSECTION (H) OF THIS
10 SECTION.

11
12 (F) *EXTENSION REQUEST.* THE PROPERTY OWNER MAY REQUEST
13 IN WRITING AN EXTENSION OF TIME TO ABATE THE FIRE
14 DAMAGED BUILDING BASED UPON FINANCIAL HARDSHIP OR
15 PENDING INVESTIGATION OF DAMAGE BUILDING OR OTHER
16 GOOD CAUSE SHOWN. THE REQUEST MUST BE RECEIVED
17 WITHIN AT LEAST 7 BUSINESS DAYS FROM THE OWNER'S
18 RECEIPT OF THE COUNTY'S INITIAL ABATEMENT NOTICE AS
19 PROVIDED IN THIS SECTION.

20
21 (G) *ABATEMENT BY THE COUNTY.* IF THE PROPERTY OWNER FAILS
22 TO COMPLY WITH THE NOTICE OF ABATEMENT, THE COUNTY
23 MAY SEEK A COURT ORDER TO ABATE THE DANGER TO THE
24 PUBLIC HEALTH AND SAFETY AT THE PROPERTY OWNER'S
25 EXPENSE.

26
27 (H) *PENALTIES.*

28
29 (1) ANY PERSON WHO FAILS TO COMPLY WITH A NOTICE OF
30 ABATEMENT SHALL BE GUILTY OF A MISDEMEANOR AND,
31 UPON CONVICTION, SHALL BE SUBJECT TO A PENALTY OF
32 NOT MORE THAN \$100 OR BY IMPRISONMENT, NOT TO EXCEED
33 30 DAYS, OR BOTH.

34
35 (2) ALTERNATIVELY, AND IN ADDITION TO AND CONCURRENT
36 WITH ANY OTHER REMEDIES PROVIDED BY LAW, INCLUDING
37 SUBSECTION (G) ABOVE, THIS SECTION MAY BE ENFORCED
38 PURSUANT TO THE PROVISIONS OF TITLE 24, 'CIVIL
39 PENALTIES,' OF THE HOWARD COUNTY CODE. A VIOLATION
40 OF THIS SHALL BE A CLASS B OFFENSE.

41
42 (3) IN THE EVENT OF ANY CONFLICT BETWEEN THIS SECTION
43 THE REMEDIES SET FORTH IN THE FIRE PREVENTION CODE,
44 HEALTH CODE OR BUILDING CODE FOR FIRE DAMAGED
45 BUILDINGS, THIS SECTION SHALL CONTROL.
46

1 (4) EACH DAY A VIOLATION OF THIS SECTION EXISTS IS A
2 SEPARATE OFFENSE.
3
4

5 *Section 2. And Be It Further Enacted by the County Council of Howard County,*
6 *Maryland that this Act shall be effective 61 days after enactment.*